
Flood Hazard Area & River Corridor General Permit: Public Comment Response Summary

A Draft Agency of Natural Resources (ANR) General Permit for activities exempt from municipal regulation in Flood Hazard Areas and River Corridors was put on notice for a 30-day public comment period ending February 27, 2015. The primary purpose for creating the General Permit is to fully implement the [Vermont Flood Hazard Area & River Corridor Rule](#) (effective 3/1/2015), which requires ANR to regulate activities exempt from municipal regulation in flood hazard areas and river corridors. These activities include state-owned and operated institutions and facilities, accepted agricultural and silvicultural practices, and power generating and transmission facilities regulated under 30 V.S.A. §§ 248 and 248a.

The following comments were provided by the Agency of Transportation (AOT). ANR responses are indented and in red.

AOT would like ANR to consider the following activities conducted in the Flood Hazard Area and/or River Corridor as exempt or non-reporting/reporting under the General Permit:

1. Roadside Vegetation Management (mowing, debris removal, brush control and tree removal) in riparian buffer zones:

Managers of transportation networks should be allowed to responsibly remove vegetation from buffer zones as some cutting in buffer zones is not inconsistent with their functions and that subject to ANR guidance, allowing some cutting would support VTrans mission of providing safe roads for traveling public. VTrans needs to conduct tree cutting and vegetation management activities where roads and rivers meet and in designated buffers at times to address hazard trees, maintain clear zone preservation, ensure safety of traveling public and site lines, accommodate access for construction activities associated with operation and maintenance of existing infrastructure and maintain the integrity of transportation infrastructure.

Maintenance of transportation networks is exempt from the Rule and includes roadside vegetation management done in accordance with AOT procedures and practices (FHA&RC Rule §29-302(3)). Further detail on what practices fall under the “maintenance” umbrella may be articulated in the interagency Memorandum of Understanding (MOU) delegating authority to AOT for activities covered by the General Permit. Please note that ANR cannot add new text to exempt activity in Section IV because this is codified in the Rule itself.

2. Maintenance of existing ditches and in kind (allowed to upsize one size if needed) small culvert replacements.

Maintenance of existing ditches and in kind culvert replacements are exempt (FHA&RC Rule §29-302(2) and (3)). Upsizing culverts would not be exempt if it requires the placement of fill.

3. Maintenance and operation of gravel & sand pits in existence prior to March 1, 2015. Debris removal (trees) at the inlet and outlet of bridges and culverts.

Maintenance of gravel and sand pits located within flood hazard areas or river corridors is exempt from the Rule (FHA&RC Rule §29-302(2) and (3)). The Rule does not regulate the operation of facilities. However, the creation of a new gravel and sand pit in a flood hazard area or river corridor would require review and a permit under the Rule.

Post-construction debris/tree removal at bridges and culverts conducted according to AOT practices and procedures falls under the maintenance exemption (FHA&RC Rule §29-302(3)).

4. Constructing and maintaining temporary erosion prevention & sediment control practices.

ANR agrees that this should be eligible for coverage and has added this activity to the General Permit as a non-reporting activity.

5. Provide for debris removal or debris chipping in place where not directly discharged into a waterway.

As stated above, debris removal is covered under the maintenance exemption. Debris chipping would also be exempt so long as the chips are not left in large material stockpiles.

6. We install/place stone fill as stream bank armoring and slope stabilization within the floodplain and flood way. We get a Stream alt consultation and the ACOE permit.

We have added the following to the General Permit “Reporting without Application” category:

Streambank armoring and stabilization that does not reduce the cross-sectional flow area of the river or stream channel and meets the requirements of the Stream Alteration Rule (Environmental Protection Rule, Chapter 27).

7. We have had to flatten a slope by moving the toe of slope, not into the waterway but in to the floodway. There will be a few places where we will need to do this in the future.

Sloping proposals that encroach in the FEMA-designated floodway will require an individual permit as these require close scrutiny and sufficient documentation to ensure that there will be no increase base flood elevation or velocity.

8. Occasionally, we have to excavate aggraded material under, around bridges, culverts and in the channel. We work with Stream Alt for this, sometimes the request for doing this comes from them, but sometimes this work is in the floodway.

This would also be covered under the maintenance exemption (FHA&RC Rule §29-302(3)) and can be further articulated in the interagency MOU delegating General Permit authority to AOT. Excavation in the floodway is not a concern under the Rule since it does not reduce the conveyance capacity at a crossing. Compliance with the Stream Alteration Rule (Environmental Protection Rule, Chapter 27) controls for this kind of work.

9. Remediation activities associated with Hazardous Sites and Spills including underground fuel tank removal.

Removal of existing structures is exempt from the Rule and would include underground fuel tanks (FHA&RC Rule §29-302(1)). However, remediation activities can range from simple to very complex, including substantial grading, and thus cannot be categorically covered under the General Permit.

10. We also need to consider temporary staging areas for Construction projects

We have updated the General Permit to include a provision for temporary construction staging areas located outside the floodway.